Communication of Protected Health Information and Command Directed Behavioral Health Evaluations

Terminal Learning Objective

- Given a Soldier needing mental health assistance, utilize proper procedures for requesting a Command Directed Behavioral Evaluation (CDBHE) IAW Department of Defense (DoD) Instruction 6490.04, Mental Health Evaluations of Members of the Military Services, 4 March 2013 while safeguarding Protected Health Information (PHI).

Scope of the Problem

- The stigma of BH poses an obstacle to getting help.
- Multiple deployers are at increased risk for BH concerns.
- The complex problem of suicide requires constant vigilance.

Balancing Privacy with Disclosure of PHI

More willing to seek help if information is kept private

Less willing to seek help if information is not kept private

Medical Awarenes s

Stigm a

Comman d Awarenes s

Help-seeking Behavior is a good thing!

More awareness of individual patients
does not necessarily decrease risk
in the general population

SIFIED

BH Care Portals and PHI

- PHI disclosure to Command might depend upon how and why the Soldier accesses BH care

Command Referral

Why:

- Potential and likelihood to harm self or others
- Soldier displays excessive sadness or recent behavioral changes
- Recent or unusual withdrawal from others
- Excessive angry outbursts or irritability
- Decrease in job performance
- Persistent or recent "at-risk" family issues

Medical Referral

Why:

- Healthcare provider refers Soldier for specialty care
- PHA/PDHRA

Self Referral

Why:

- Soldier deems he/she needs assistance
- Command/leaders encourage Soldier to seek assistance (non-emergency)
- Chaplains/ACS and other agencies assist the Soldier in accessing care

BH Self Referrals and Protected Health Information (PHI)

- Soldiers should always be encouraged to seek BH care as a self-referral before psychological concerns become unbearable or overwhelming.
- Commanders can always receive the following minimum essential information for any healthcare:
  - General Health/Profile status
  - Scheduled appointments and appointment reminders
  - Kept appointments
- Information discussed with a BH provider is considered confidential communication and not routinely disclosed to others outside the treatment without the express written consent of the Soldier.

BH Self Referrals and Protected Health Information (PHI)

- Exceptions to confidential BH communication:
  - Harm to Self
  - Harm to Others
  - Harm to Mission
  - Special Personnel – Personnel Reliability Program or other potentially sensitive mission responsibilities
  - Hospitalization
  - Substance Abuse Treatment

- The BH provider is required to notify the Commander within 24-hours of the appointment if any of these exceptions apply.

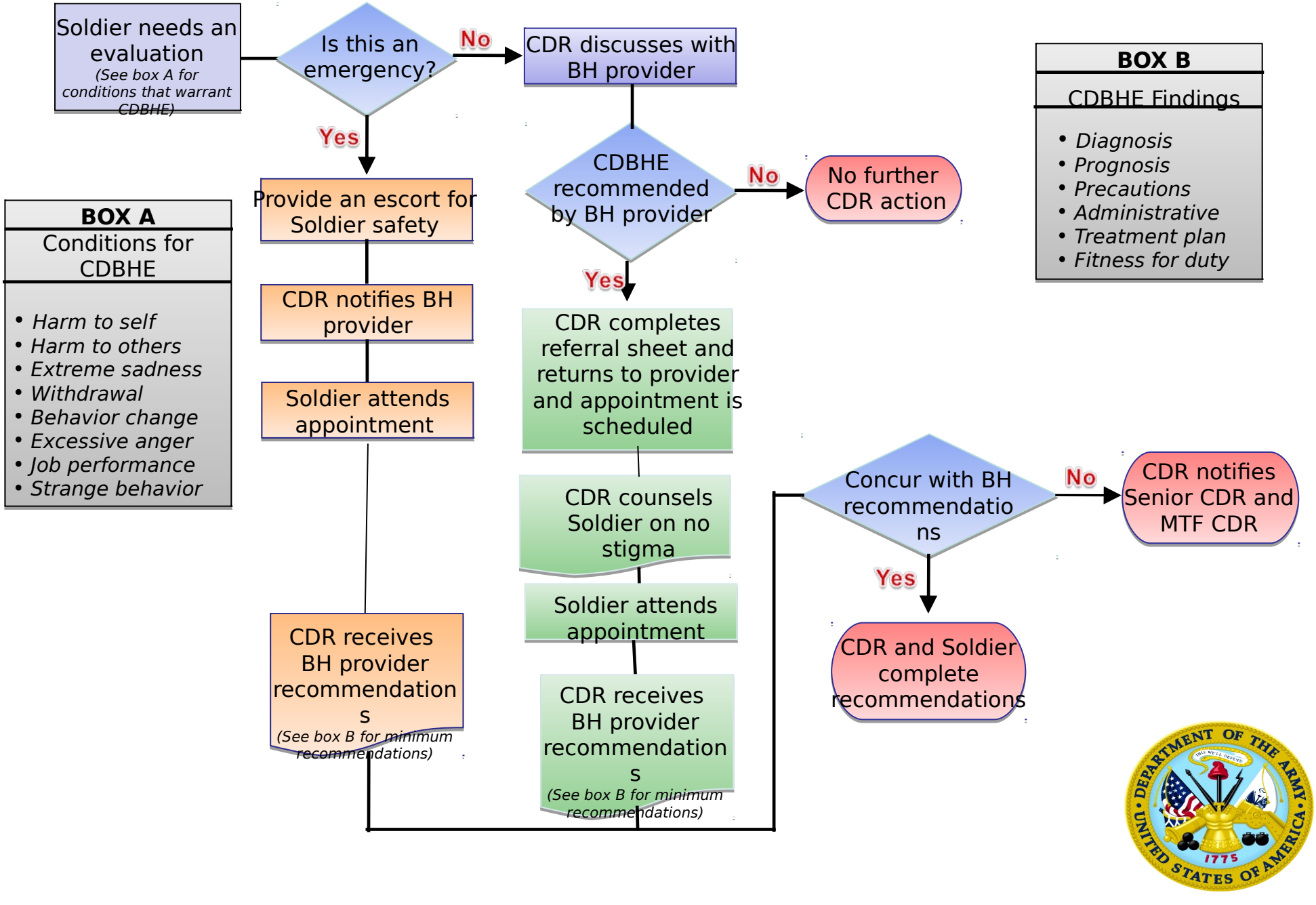
Conditions to Consider for CDBHE

- Potential and likelihood to harm self or others.
- Soldier displays excessive sadness.
- Recent or unusual withdrawal from others.
- Recent behavioral changes.
- Excessive angry outbursts or irritability.
- Decrease in job performance.
- Persistent or recent “at-risk” family issues.

CDBHE Procedures

- Consult with behavioral health (BH) provider, if not available, consult with physician or senior confidential non-physician provider.
- BH provider will provide advice about whether the evaluation should be conducted **ROUTINELY** or on an **EMERGENCY** basis.
- Commander completes the request for evaluation sheet
  - Role of Supervisor in routine and emergency cases
- BH provider conducts behavioral health evaluation.
- BH provider submits written feedback to Commander.
- Commander will follow through with recommendations from BH provider.

Command Directed Behavioral Health Evaluation Decision Tree



Conducting an Emergency CDBHE Referral

- **First priority is to protect the Soldier and other potential victims from harm.**
- Have Soldier escorted to the nearest BH provider or emergency room.
- Discuss with BH provider the statements or behaviors that prompted the CDBHE emergency referral.

Conducting a Routine CDBHE Referral

- Provide the Soldier with counseling informing Soldier of day/time of appointment and that there is no stigma associated with seeking behavioral health care
- A Commander may NOT restrict a Soldier from lawfully communicating with the Inspector General, an attorney, Member of Congress or other person about the referral for mental health evaluation.
- Use of escorts is recommended but not required.

CDBHE BH Response (1 of 2)

- BH provider will provide a written response (DA 3822) to the Commander within **one business day** after completing the CDBHE. Information provided will include:
  - Safety precautions
  - Soldier's diagnosis
  - Soldier's prognosis
  - Recommended treatment plan
  - Fitness for continued service

CDBHE BH Response (2 of 2)

- Additional Recommendations
  - Recommended precautions:
    - Move into barracks.
    - An order to avoid the use of alcohol.
    - An order not to handle firearms or other weapons.
    - An order not to contact potential victim or victims.
  - Recommended administrative management of the Soldier (i.e., administrative separation).
  - Recommendations regarding restricted access to classified information, if appropriate.
  - Recommendations regarding fitness for duty.

Commander Actions

- Review mental health findings.
- Implement recommendations.
- Continue communication/consultation
  - Provider and commander will discuss patient care, impact diagnosis may have on current missions, collaboration on treatment plan

- Protect a Soldier's health information – Information should be shared with others (e.g., subordinates or supervisors) ONLY on a need to know basis.

Actions when a Commander Non-concurs with CDBHE Recommendations

- If a Commander does not concur with the BH provider's CDBHE recommendation to separate from service:
  - Provide written notification to the next senior Commander
  - Describe reasons for non-concurrence.
  - Submit notification to MTF Commander.

- Continue to communicate with the BH provider to promote collaboration and successful management of the Soldier.

10 Things to Know about PHI

1. MTFs must take reasonable steps to limit the disclosure of PHI. Healthcare (HC) providers must balance notification of Commanders with operational risk.

2. HC providers must not limit communication to “sick call slips” alone.

3. HC providers **will not** communicate the **reason** for medical appointments, routine medical care, the clinical service seen nor specific details about particular appointments (exception #5).

4. HC providers **will not notify** Commanders when a Soldier’s medical condition does not affect the Soldier’s fitness for duty/mission are not provided to the unit

5. HC providers **will notify** Commanders when a Soldier obtains behavioral health care under the following circumstances: **Harm to Self, Harm to Others, Harm to Mission, Hospitalization, Substance Abuse Treatment or for personnel enrolled in the Personnel Reliability Program.**

10 Things to Know about PHI

status due to medical conditions: **Inpatient Care, Substance Abuse Treatment (ASAP), missed appointments**

7. HC providers **will notify** Commanders about MEB/PEB related data

8. HC providers **will notify** Commanders about **Acute Medical Conditions Interfering with Duty/Mission** and duty limiting conditions.

9. HC providers **will notify** Commanders the results of **Command Directed Behavioral Health Evaluations**.

10. Commanders should also share information with providers relating changes in Soldier behavior or other information that could impact a diagnosis or treatment: UCMJ, physical altercations, infidelity, financial challenges, Soldier feelings of inadequacy, or when the Soldier has a significant change in social contacts.

Review of Key Points

- The CDBHE is a Commander's tool to refer a Soldier for a Behavioral Health Evaluation.
- Commander's are responsible for advising the Soldier that there is no stigma associated with obtaining BH services when referring the Soldier for a CDBHE.
- BH providers are required to provide Commander's with written feedback following a CDBHE on a DA 3822.
- In certain situations BH PHI will be released to Commander's for self-referrals.
- Commander's must take all precautions to protect a Soldier's PHI.
- Constant and regular communication with the BH provider is the key to a solid collaborative relationship to help Soldiers in need of BH assistance.

REFERENCES

- DoD Instruction 6490.04, “Mental Health Evaluations of Members of the Military Services.” March 4, 2013
- MEDCOM/OTSG Policy 13-020, “Command Directed Behavioral Health Evaluations,” April 12, 2013
- Section 546 Public Law 102-484, “National Defense Authorization Act for Fiscal Year 1993,” October 23, 1992
- DoD Directive 7050.6, “Military Whistleblower Protection,” August 12, 1995
- DOD Instruction 6490.08, “Command Notification Requirements to Dispel Stigma in Providing Mental Health Care to Service Members, August 17, 2011
- OTSG/MEDCOM Policy 10-042, Release of Protected Health Information (PHI) to Unit Command Officials, 30 June 2010.